

REMARKS

In the final Office Action dated May 7, 2007, the Examiner: (i) rejected claims 1-4, 7-9, 13, 15-18, 21-23, 25 and 26 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,749,081 (hereinafter “Salvo”) in view of U.S. Patent Application Publication No. 2002/0168679 (hereinafter “Neumayer”); and (ii) rejected claims 10 and 14 under 35 U.S.C. §103(a) as being unpatentable over Salvo in view of Neumayer in further view of U.S. Patent No. 5,749,081 (hereinafter “Whiteis”).

Applicants respectfully request reconsideration of the application in view of the remarks below.

In the Advisory Action, the Examiner contends that the previously-submitted Declaration of Prior Invention, Attorney Affidavit, and associated exhibits are insufficient to establish diligence. More specifically, the Examiner contends that Applicants have failed to establish diligence with respect to time period from Friday, June 22, 2001 (i.e., the date that I completed the draft patent application), to Friday, June 29, 2001 (i.e., the date that the patent application was filed).

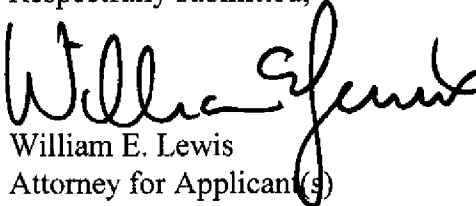
Applicants respectfully traverse this rejection. As noted in MPEP 2138.06, *Haskell v. Coleburne*, 671 F.2d 1362, 213 USPQ 192, 196 (CCPA 1982) held that inventors “and their attorney were all diligent in constructively reducing the invention to practice (evidenced by the” filing of a patent application six days after the completion thereof). Nonetheless, an Amended Attorney Affidavit and corresponding exhibits have been submitted with this response to provide additional evidence of diligence. As asserted in the Amended Attorney Affidavit, reasonable diligence has been established since the attorney worked on a reasonable backlog of cases which were taken up in chronological order and carried out expeditiously before working reasonably hard on and completing a draft patent application for the present application. Moreover, the Amended Attorney Affidavit clarifies that, during the period from June 22, 2001, to June 29, 2001, I worked diligently to revise the draft patent application in accordance with the inventors’ comments and to obtain executed declarations from the inventors.

Applicants are entitled to overcome the §103(a) rejections using a declaration under 37 C.F.R. §1.131, in accordance with MPEP §§706.02(b) and 715. It is believed that the declaration is

effective to remove the Neumayer reference from consideration, and thereby overcome the §103(a) rejections.

In view of the above, Applicants believe that claims 1-4, 7-10, 13, 15-18 and 21-26 are in condition for allowance, and respectfully request withdrawal of the §103(a) rejections. Moreover, in the event the present application is not considered to be in condition for allowance responsive to the remarks made herein, Applicants respectfully request that a new Office Action should be issued and should be indicated as having a non-final status so that Applicants can be provided with a fair and reasonable opportunity to consider the arguments therein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William E. Lewis", written over the typed name and title.

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